

REMARKS

Claims 58 to 96 are pending. Claims 58, 73, 81, and 89 are currently amended. Reconsideration of the application is requested.

Examiner Interview

Applicant thanks the Examiner for the courtesy of a telephonic interview on April 3, 2008. Examiner Hand stated that Applicants may disregard the Double Patenting Rejections issued in the non-final Office Action dated January 18, 2008. Applicant discussed with the Examiner the amendments made to claims 58, 73, 81, and 89 and the support for the amendments as detailed herein. There was agreement that the feature “wherein the container is provided with a sterile exterior by exposure to a sterilizing gas” is not disclosed by the Dischler document cited by the Examiner. The Examiner indicated she would review Dischler to consider whether the feature “an applicator” is disclosed therein.

§ 102/103 Rejection

Claims 58-60, 62-78, 83-89, and 91-96 are rejected under 35 USC § 102(e) as being anticipated by or, in the alternative, under 35 USC § 103(a) as being obvious over U.S. Patent No. 6,585,693 (Dischler).

Applicants have amended claims 58, 73, and 81 to include the feature wherein the container is provided with a sterile exterior by exposure to a sterilizing gas. Support for the amendment can be found throughout the application and, in particular, on page 9, lines 13-16. Dischler does not disclose a container which is provided with a sterile exterior by exposure to a sterilizing gas. Therefore, claims 58, 73, and 81, as amended, are not anticipated by Dischler.

Dischler does not teach or suggest sterilizing his device. Therefore, claims 58, 73, and 81, as amended, are not obvious over Dischler.

Applicants have amended claim 89 to include the feature of a container comprising polymeric walls. Support for the amendment can be found throughout the application (for example, see page 4, lines 1-2). Applicants have further amended claim 89 to include the feature of an applicator. Support for the amendment can be found throughout the application and, in particular, on page 22, lines 13-21 and in Figures 1, 5, 6, 7, 8, and 9. Dischler does not disclose an applicator.

Therefore, claim 89, as amended, is not anticipated by Dischler. Furthermore, Dischler does not teach or suggest an applicator. Therefore, claims 58, 73, and 81, as amended, are not obvious over Dischler.

The rejection of claims 58-60, 62-78, 83-89, and 91-96 under 35 USC § 102(e) as being anticipated by or, in the alternative, under 35 USC § 103(a) as being obvious over U.S. Patent No. 6,585,693 (Dischler) has been overcome and should be withdrawn.

§ 103 Rejection

Claims 59, 61, 79-81, 82, and 90 are rejected under 35 USC § 103(a) as being unpatentable over Dischler.

Claims 58, 73, 81, and 89 have been amended and are patentable over Dischler for at least the reasons given above.

Claims 59 and 61 each add additional features to claim 58. Claims 79 and 80 each add additional features to claim 58 or claim 73. Claim 82 adds an additional feature to claim 81. Claims 90 adds an additional feature to claim 89. Independent claims 58, 73, 81, and 89 are patentable for at least the reasons given above. Thus, claims 59, 61, 79-81, 82, and 90 are likewise patentable.

In summary, the rejection of claims 59, 61, 79-81, 82, and 90 under 35 USC § 103(a) as being unpatentable over Dischler has been overcome and should be withdrawn.

§ Double Patenting Rejections

As detailed above, the Examiner has directed the Applicant to disregard the double patenting rejections.

In view of the above, it is submitted that the application is in condition for allowance. Examination and reconsideration of the application as amended is requested.

Respectfully submitted,

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Date

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